IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

TUESDAY, THE 16TH JANUARY 2007 / 26TH PAUSHA 1928

WP(C).No. 37440 of 2003(F)

PETITIONER:

TOMY AUGUSTINE,
CONVENOR OF THE COMMITTEE CONSTITUTED UNDER THE PEOPLES' PLAN PROGRAMME FOR THE CONSTRUCTION OF KAMBILIKANDOM - PANAMKUTTY ROAD, MANATHOOR HOUSE, PANAMKUTTY P.O., ADIMALY VIA., IDUKKI DISTRICT.

BY ADV. SRI.BABU JOSEPH KURUVATHAZHA

RESPONDENTS:
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1. **STATE OF KERALA,**
   REP. BY ITS SECRETARY TO GOVERNMENT,
   DEPT. OF RURAL DEVELOPMENT, GOVT.SECRETARIAT,
   THIRUVANANTHAPURAM.

2. **THE PROJECT OFFICER, D.R.D.A., IDUKKI.**

3. **THE BLOCK DEVELOPMENT OFFICER**
   (SECRETARY), ADIMALY BLOCK PANCHAYAT, ADIMALY,
   IDUKKI DISTRICT.

4. **THE ASSISTANT EXECUTIVE ENGINEER,**
   D.R.D.A., IDUKKI.

BY GOVERNMENT PLEADERSMT. SMT.SMITHA SUKUMARAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 16/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR, J.

W.P.(C) NO. 37440 OF 2003-F

JUDGMENT

The petitioner was the convenor of a committee constituted under the Peoples Planning Programme, for the construction of Kambilikandom – Panamkutty road in Konnathady Panchayat. The work was completed in 2001. An amount of Rs.61,283/-, which according to the petitioner, is the admitted final bill amount, is remaining unpaid. Apart from that he is entitled to get Rs.One lakh, which is furnished as security deposit. The Project Officer, the 2nd respondent herein, by Ext.P5 communication, has requested to the Block Development Officer, Adimali, to release the security deposit. Praying to release the security deposit, the petitioner has preferred Ext.P6 representation before the B.D.O., who is the Secretary of the Adimali Block Panchayat. He has also filed Ext.P7 representation, praying for payment of the balance amount of Rs.61,283/-, apart from the security deposit of Rs.One lakh. While so, he was served with Ext.P8 communication of the Project Officer to the Block Development Officer, Adimali, dated 7.3.2003. The said communication reads as follows:

"Based on the final inspection report of LBS Centre

> communicated vide reference 1st cited, an amount of Rs.1,02,766/- has to be recovered as detailed in pages 94 to 95 of M Book No.85/98-99. You are requested to effect the above recovery and submit the final reimbursement proposal urgently."

Challenging the said communication, this Writ Petition is filed.

2. According to the petitioner,the work was done as per the directions of the respondents and to their satisfaction. Therefore, the stand now taken in Ext.P8 is unsustainable.

3. I heard the learned Government Pleader for the respondents also. This is a dispute arising under a contract. So, if one of the parties, for grounds which cannot be said to be totally irrelevant, decline to release the balance amount and the security deposit, this Court is not justified in interfering with the same under Article 226 of the Constitution of India. The petitioner has to move the civil court. The respondents should be conceded freedom to adjust the amount with them towards any liability of the petitioner or refuse to release the amount, if the work done by the petitioner is found to be not satisfactory. But, they cannot resort to any revenue recovery steps, to recover any additional amount other than that is already with them, without obtaining a decree from the civil court.

Subject to the above observation, the Writ Petition is closed, without

prejudice to the contentions of the petitioner and his right to move other forums for appropriate reliefs.

16th January, 2007. K.BALAKRISHNAN NAIR, JUDGE.

Nm/